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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

ORIGINAL

JUL 03 2008  
at 4 o'clock and 13 min. 8 M.  
SUE BEITIA, CLERK

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

RAYMOND WARE,	)	CIVIL NO. 04-00671 HG/LEK
	)	
Plaintiff,	)	<b>PLAINTIFF'S OBJECTIONS TO</b>
	)	<b>DEFENDANT'S CALCULATION</b>
vs.	)	<b>OF BACK PAY, FILED JUNE 30,</b>
	)	<b>2008; CERTIFICATE OF SERVICE</b>
MICHAEL CHERTOFF, Secretary,	)	
Department of Homeland Security;	)	
JOHN DOES 2-5,	)	
	)	Judge: Helen Gillmor
Defendants.	)	U.S. Magistrate Judge: Leslie
	)	Kobayashi
	)	

**PLAINTIFF'S OBJECTION TO**  
**DEFENDANT'S CALCULATION OF BACK PAY**

COMES NOW, Plaintiff RAYMOND WARE, by and through his attorney,  
Daphne E. Barbee, and hereby files the instant objection to some portions of the  
Defendant's back pay calculations.

1. INTEREST RATE.

The Court ordered that the Defendants pay ten percent interest on the back pay award. Defendants have only included ten percent interest on net back pay award. According to the case law, Loeffler v. Frank, 487U.S. 549 (1998) the ten percent interest should be on the gross back pay award, which is calculated as \$377,727.60 with ten percent at \$415,500.36. With the interest amount and deductions, the net pay should be \$340,174.68 instead of \$334,071.63.

2. COMP TIME.

Defendant's calculations do not include the comp time Plaintiff would have received had he been employed. Plaintiff has calculated his comp time to be 500 hours (100 hrs. per year according to last pay check). Plaintiff requests that the comp time be included in his hours.

3. ANNUAL LEAVE.

Defendants have calculated annual leave at 659.5 hours. According to OPM rules and regulations, hours over 240 must be used by December 2008. Plaintiff's counsel contacted AUSA Thomas Helper and obtained an agreement that the 419.5 hours can be immediately used for the annual leave once Plaintiff returns to work at a projected date of July 19, 2008.

All other aspects of Defendant's back pay calculations filed on 6-30-09  
are accepted.

DATED: Honolulu, Hawaii

7-3-08

D.E.

DAPHNE E. BARBEE

Attorney for Plaintiff RAYMOND WARE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing. document was duly served upon the following parties at their last known addresses by means of hand delivery on July 3, 2008.

EDWARD H. KUBO, JR., ESQ.  
U.S. Attorney  
THOMAS A. HELPER, ESQ.  
Assistant U.S. Attorney  
Rm. 6-100, PJKK Federal Building  
300 Ala Moana Blvd.  
Honolulu, Hawaii 96850

Attorneys for Federal Defendant

DATED: Honolulu, Hawaii, 7-3-08.

  
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DAPHNE E. BARBEE  
Attorney for Plaintiff